

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

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Application No.: 10/686,943 Group: 1648

Filed: October 16, 2003 Examiner: Louise Wang Zhiying Humphrey

Confirmation No.: 4585

Methods And Reagents For Vaccination Which Generate A CD8 T Cell
Immune Response



CERTIFICATE OF MAILING OR TRANSMISSION	
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REPLY TO RESTRICTION REQUIREMENT

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Responsive to the Restriction Requirement dated February 16, 2006, the sequence of SEQ ID NO: 64 is elected for prosecution. Applicants reserve the right to file a continuing application or take such other appropriate action as deemed necessary to protect the non-elected inventions. Applicants do not hereby abandon or waive any rights in the non-elected inventions.

Responsive to the requirement for an election of species for searching purposes, Applicants hereby elect a viral vector as the species for the priming composition and a fowlpox vector as the species for the boosting viral vector. Applicants further elect replicating viral vector as the species of the priming vector. Claims readable on the elected species are Claims 1-4, 6, 7, 10, 12 and 14-18.

A two-month extension of time to respond to the Restriction Requirement is respectfully requested. A Petition for an Extension of Time and the appropriate fee are being filed concurrently.

Interview Summary

To comply with 37 C.F.R. § 1.133(b), Applicants submit the following statement regarding the substance of the telephonic interview that took place on April 17, 2006 between Applicants' representatives, Anne J. Collins and Eric M. Balicky, and Examiners Humphrey, Housel and Stucker:

On April 17, 2006, Applicants' representatives, Anne J. Collins and Eric M. Balicky, initiated a telephonic interview with Examiner Humphrey and Supervisory Examiners Housel and Stucker for the purpose of clarifying the species election requirement in this application and the sequence restrictions in this application and related application, Application No. 10/833,745. Specifically, Applicants' representative, Ms. Collins, pointed out that the species election requirement made in this application is inconsistent with those made in several related applications (e.g., U.S. Application No. 10/833,745) and requested clarification. In particular, Ms. Collins noted that the species election requirements in the related applications recited three species (DNA plasmid, viral vector, recombinant protein) for the priming composition, while the species election requirement in this application recited only two species (DNA plasmid, recombinant protein or particle). Examiner Housel responded that the same restriction requirement should have been made in all of the applications. Therefore, Examiner Housel instructed Applicants to elect from three species (DNA plasmid, viral vector, recombinant protein) for the priming composition in this application. Accordingly, Applicants have elected a viral vector as the species of the priming composition in this application, as indicated above. In addition, consistent with the restriction requirement in the related applications (e.g., U.S. Application No. 10/833,745), if a viral vector is elected as the priming composition, then

Applicants were required to elect either herpes virus, replicating viral vector or non-replicating viral vector as the species of the viral vector of the priming composition. Accordingly, Applicants have elected a replicating viral vector as the species for the vector of the priming composition.

With regard to the sequence restriction requirement, Ms. Collins requested clarification as to whether the sequence restriction was an election of a group or an election of a species. Miss Collins pointed out that sixty-three sequences are recited in claim 5 of this application and that all of these sequences were examined and allowed in the parent application, Application No. 09/454,204 (now U.S. Patent No. 6,663,871), and therefore, a search of all 63 sequences in the subject application would not present an undue burden for the Examiner. In light of this, Ms. Collins requested that the restriction of the sequences be withdrawn and all 63 sequences be examined in the subject application.

Examiner Housel clarified that there is no real distinction between a group and species and that, as in U.S. Patent No. 6,663,871, in this application, a genus, or linking, claim is present (i.e., claim 1). Therefore, all sequences will be rejoined in this application if the genus/linking claim is found allowable. According to Examiner Housel, the sequence election requirement was made in this application to establish a starting point for examination and that the genus claim in the application will also be examined.

Miss Collins stated that she understood the Examiner's position and inquired as to whether Applicants' representatives should prepare an interview summary. Examiner Housel responded affirmatively.

As indicated herein above, Applicants have elected a single sequence, represented by SEQ ID NO: 64, in response to the sequence restriction requirement.

Generic Claims

In the Office Action, the Examiner states that "[c]urrently, claims 1, 6, 17, 21, and 27 are generic" (Office Action, page 3). Applicants respectfully disagree with the Examiner's assertion


that Claims 17 and 21 are generic with regard to the designated species for the priming composition. In particular, Claim 17 is drawn to a method that comprises administering a priming composition, wherein the priming composition is a DNA plasmid, while Claim 21 is drawn to a method that comprises administering a recombinant protein or particle. Accordingly, Claims 17 and 21 should not be considered generic with regard to the two designated species for the priming composition, namely, a DNA plasmid and a recombinant protein or particle. Thus, only Claims 1, 6 and 27 are generic for the various species designated in the Office Action.

Supplemental Information Disclosure Statement

A Supplemental Information Disclosure Statement (SIDS) is being filed concurrently herewith. Entry of the SIDS is respectfully requested.

Respectfully submitted,

HAMILTON, BROOK, SMITH & REYNOLDS, P.C.

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Dated: *May 16, 2006*